

REMARKS

Responsive to the Office Action mailed October 5, 2009, Applicants provide the following. No claims have been amended. Therefore, Twenty (20) claims remain pending in the application: Claims 1-20. Reconsideration of claims 1-20 in view of the remarks below is respectfully requested.

By way of this amendment, Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain any outstanding issues, it is respectfully requested that the Examiner telephone the undersigned at (805) 781-2865 so that such issues may be resolved as expeditiously as possible.

Summary of Applicant Initiated Examiner Interview

Per 37 CFR § 133(b), the following is a brief summary of the Examiner interview conducted December 14, 2009 via telephone between Steven M. Freeland, Attorney, Shirin Tefagh, Attorney, and Examiner Joshua D. Taylor.

No Exhibits were shown, and no demonstrations were conducted. The rejections to claims 1-20 under 35 U.S.C. 103 under U.S. Publication No. 2003/0126600 to Heuvelman in view of U.S. Patent No. 6,637,029 to Maissel were discussed.

Applicants' representatives agreed with the Examiner in that Heuvelman fails to disclose "wherein characterizing descriptor related to a currently displayed discrete selectable item of data are used to identify another discrete selectable item of data," but argued that Maissel also fails to describe or suggest this limitation. The Examiner stated that Heuvelman discloses providing a program to the user based on several criteria one of which is the recent history of content watched and that Maissel describes that the criteria can be related to the program being currently watched. However, Applicant's representatives pointed out that Maissel does not describe using the currently watched program and instead only describes entering programs into a user profile when they have been viewed for a short amount of time based on determining that the user is a "surfer."

The interview ended with no agreement being reached with respect to the rejection to claims 1-20 under 35 U.S.C. 103.

Claim Rejections - 35 U.S.C. §103

Claims 1-15 stand rejected under 35 U.S.C. § 103(a), as being unpatentable over U.S. Patent Publication No. 2003/0126600 (Heuvelman) in view of U.S. Patent No. 6,637,029 (Maissel). Applicants respectfully traverse these rejections and submit that this combination fails to describe or suggest each limitation as recited in claims 1-15.

More specifically, with regard to independent claim 1, the combination fails to describe or suggest “while displaying a selected discrete selectable item of data: using the characterizing descriptors as correspond to the selected discrete selectable item of data to provide at least one selection criterion.” The Examiner admits that Heuvelman fails to disclose “wherein characterizing descriptor related to a currently displayed discrete selectable item of data are used to identify another discrete selectable item of data” (Office Action, page. 3), and instead relies on Maissel as describing this limitation. Applicants respectfully submit that the cited portions of Maissel, as well as the reference as a whole, do not describe using the characterizing descriptors of a selected discrete selectable item while displaying the selected discrete selectable item to provide at least one selection criterion.

The Examiner in asserting that Maissel describes this limitation asserts that “Maissel teaches that a users’ program viewing history can be updated in the users’ profile before said user has completed viewing said program, such as after a predetermined threshold period viewing time, such as two or five minutes” (Office Action, page. 3, citing: Maissel Figs. 4-6, col. 17, line. 17-53). The cited portions however, fail to describe or suggest what the Examiner asserts. Instead, the cited portion of Maissel explicitly discloses that new program information is output by determining “whether the end of a previous program has been reached,” and as such does not disclose that a user’s viewing history can be updated in the user’s profile “before said user has completed viewing said program” as asserted by the Examiner. Further, the threshold amount of time referred to by the Examiner does not refer to a predetermined amount of viewing time, and instead refers to a predefined threshold amount of time the viewer viewed the program before the user has ended his viewing of the program at which point the information about that program is added to the user profile (see Maissel, col. 17, lines 8-17). That is, Maissel specifically describes that “[i]n a case where the viewed program and viewer information indicated that the viewer has viewed a program for a short

period of time, the new profile information may include surfing information” and defines the short period of time as a threshold (Maissel, col. 17, lines. 8-23, emphasis added). Therefore, Maissel fails to describe or suggest “while displaying a selected discrete selectable item of data: using the characterizing descriptors as correspond to the selected discrete selectable item of data to provide at least one selection criterion.” As such, the proposed combination fails to describe or suggest each limitation as recited in at least claim 1, and as such fails to render claim 1 obvious. Thus, Applicants respectfully request that the rejection to independent claim 1 be withdrawn.

Independent claims 5 and 10 recite similar language, and as such are also not rendered obvious by the combination of the above-cited references. Thus, Applicants respectfully request that the rejection to independent claims 5 and 10 be withdrawn.

Additionally, as previously argued, independent claim 5 recites:

“identifying at least another one of the plurality of discrete selectable items of audio/visual content for which at least one characterizing descriptor as individually corresponds to the at least another one of the plurality of discrete selectable items of audio/visual content is similar to a characterizing descriptor of the selected discrete selectable item of audio/visual content.”

The portion of Heuvelman that the Examiner cites as describing this reference specifically recites, “if the user just watched the news then it typically makes less sense to offer him/her similar news from another source” (Heuvelman, para. 0015). As such, it appears that Heuvelman teaches away from “identifying at least another one of the plurality of discrete selectable items ... for which at least one characterizing descriptor ... is similar to a characterizing descriptor of the selected discrete selectable item of audio/visual content,” as recited in claim 5 (emphasis added). More specifically, it appears that the history of content consumed in Heuvelman is used to steer away from recommending content that is similar to content that was previously consumed. As such, the cited portions of Heuvelman, as well as the reference as a whole, teach away from what is recited in claim 5. As such, Heuvelman clearly does not teach and instead teaches away from “identifying at least another one of the plurality of discrete selectable items ... for which at least one characterizing descriptor ... is similar to a characterizing descriptor of the selected discrete selectable item of audio/visual content,” as recited in claim 5. Accordingly, one skilled in the art would not combine the references as proposed by the Examiner, as the combination would go against the principle of operation of the Heuvelman

reference. As such, Applicants respectfully submit that claim 5 is not rendered obvious by the proposed combination for this additional reason.

Claims 2-4, 6-9 and 12-15 depend from independent claims 1, 5 and 10. As such, these claims are also not rendered obvious by the proposed combination at least for the reasons described above with respect to claims 1, 5 and 10, and further due to their dependence upon allowable claims. As such, Applicants respectfully request that the rejections to these claims be withdrawn.

Claims 16-18 stand rejected under 35 U.S.C. § 103(a), as being unpatentable over U.S. Patent Publication No. 2003/0126600 (Heuvelman) in view of U.S. Patent No. 6,637,029 (Maissel) in further view of U.S. Patent Publication No. 2004/0139100 (Gottzman). Applicants respectfully traverse these rejections and submit that this combination fails to describe or suggest each limitation as recited in claims 16-18.

Claims 16-18 depend from independent claim 1. As such, these claims are also not rendered obvious by the combination of Heuvelman and Maissel at least for the reasons described above with respect to claim 1, and further due to their dependence upon allowable claims. Furthermore, Gottzman also fails to describe or suggest the limitations not disclosed by the Heuvelman and Maissel references. As such, Applicants respectfully request that the rejections to these claims be withdrawn.

Claims 19-20 stand rejected under 35 U.S.C. § 103(a), as being unpatentable over U.S. Patent Publication No. 2003/0126600 (Heuvelman) in view of U.S. Patent No. 6,637,029 (Maissel) in further view of U.S. Patent Publication No. 2003/010658 (Zimmerman). Applicants respectfully traverse these rejections and submit that this combination fails to describe or suggest each limitation as recited in claims 19-20.

Claims 19-20 depend from independent claim 1. As such, these claims are also not rendered obvious by the combination of Heuvelman and Maissel at least for the reasons described above with respect to claim 1, and further due to their dependence upon allowable claims. Furthermore, Zimmerman also fails to describe or suggest the limitations not disclosed by the

Heuvelman and Maissel references. As such, Applicants respectfully request that the rejections to these claims be withdrawn.

CONCLUSION

Applicants submit that the above amendments and remarks place the pending claims in a condition for allowance. Therefore, a Notice of Allowance is respectfully requested.

Respectfully submitted,

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